IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESSDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 7146 of 2005

Between:

Mohd. Quddus Ghouri, S/o. Mohd. Jamal Ghouri,
R/o. H.No. 20-7-480, Telecom Mallad, Fathe Darwaza, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep by Principal Secretary, Home Department, Secretariat, Hyderabad - 22.
2 The Director General & Inspector General of Police, Andhra Pradesh, Lakdi-ka-pul, Hyderabad.
3 The Inspector General of Police (Intelligence), Andhra Pradesh, Lakdi-ka-pul, Hyderabad.
4 The Commissioner of Police, Hyderabad.
5 The Station House Officer, Hussaini Alam Police Station, Hyderabad.
6 The Government of India, Rep by its Director Central Bureau Investigation, New Delhi

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a Writ of Mandamus directing the 1st respondent to order thorough probe by the C.B.I. into the cases in Cr.No. 179/2003 in Cr.No. 178 of 2003 of P.S. Hussaini Alam and other connected cases i.e. S.C. No.222 of 2003 and S.C. 584 of 2001 pending on the files of Metropolitan Sessions Judge and 1st Metropolitan Sessions Judge Courts at Hyderabad respectively and to submit report to this Honourable Court and to pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.ASADULLA SHAREEF

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner is an accused in Crime No. 179 of 2003 on the file of the P.S. Hussaini Alam and a witness in S.C. Nos. 222 of 2003 and 584 of 2001 pending on the file of the Court of Metropolitan Sessions Judge, Hyderabad. The grievance of the petitioner in this writ petition is that though he is a witness, the police are not providing necessary protection to him even though a representation had been made to them stating that his life is under threat at the hands of the accused in Crime No. 179 of 2003 on the file of the P.S. Hussaini Alam.

The learned Government Pleader for Home, on instructions given by the S.H.O. Hussaini Alam, who is present in the Court today, states that the petitioner is absconding for about 1 ½ years. The veracity regarding the longevity of the absence of the petitioner is not very relevant, nevertheless, there is no reason for this Court to disbelieve that the petitioner is absconding; may be under the threat of attack by the accused in the Sessions cases referred to supra.

It appears that the petitioner is a crucial witness in the said Sessions cases and it is further informed to this Court that trial in the Sessions Case No. 222 of 2003 stood posted to tomorrow i.e. 7.4.2005 and the examination of the petitioner is to be done. Hence, so long as the petitioner remains as a witness, I feel that he deserves protection. However, at the same time, he is also arrayed as an accused in another case. Therefore, the petitioner has two statuses- one is as a witness and another is as an accused. Notwithstanding the difference in the status, the petitioner has a right to have the protection, but the quality and nature of protection would differ.

At this stage, the learned counsel for the petitioner submitted that in this regard the petitioner had made a representation dated 8.4.2004 to the Commissioner of Police.

Having regard to the facts and circumstances of the case, the respondents are directed to give adequate protection to the petitioner so long as he remains as a witness, and after his role as a witness is completed, the respondents will automatically have liberty to deal with the petitioner as an accused and strictly in accordance with law.

The Station House Officer, Hussaini Alam P.S. is directed to inform the same to the authorities concerned to take appropriate action.

With the above observations and directions, the writ petition is disposed of at the stage of admission. No costs.

06-04-2005

Note:

Issue CC by today.

B/0 ***KVSN***

To

1 The Principal Secretary, Home Department, Government of Andhra Pradesh, Secretariat, Hyderabad - 22.
2 The Director General & Inspector General of Police, Andhra Pradesh, Lakdi-ka-pul, Hyderabad.
3 The Inspector General of Police (Intelligence), Andhra Pradesh, Lakdi-ka-pul, Hyderabad.
4 The Commissioner of Police, Hyderabad.

5 The Station House Officer, Hussaini Alam Police Station, Hyderabad.
6 The Government of India, Rep by its Director Central Bureau Investigation, New Delhi

7 Two CCs to GP for Home, High Court buildings, Hyderabad.

8 Two CD copies.